

FILED 14 July 2004

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SC PUBLIC SERVICE COMMISSION

STATE OF SOUTH CAROLINA

BEFORE THE PUBLIC SERVICE COMMISSION

DOCKET NO. 2004-90-W/S

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Legal 1
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SCOTT-1

IN THE MATTER OF:)
)
Total Environmental Solutions, Inc.)
Application for Increase in Rates and)
Charges for Water and Sewer Services)
_____)

TESTIMONY OF PAUL MAEDER

S. C. PUBLIC SERVICE COMMISSION
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UTILITIES DEPARTMENT

1 Q. PLEASE STATE YOUR NAME AND BUSINESS AFFILIATION.

2 A. My name is Paul Maeder. I am the Chief Executive Officer of Total
3 Environmental Solutions, Inc. (TESI), a wholly owned subsidiary of South
4 Louisiana Electric Cooperative Association (SLECA). I am also the assistant
5 general manager of SLECA.

7 Q. PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL
8 BACKGROUND.

9 A. I have a BLS, Liberal Studies, from the University of Oklahoma, 1991, and a MA,
10 Humanities, from California State University, Dominguez Hills, 1995. I am also a
11 graduate of the National Rural Electric Cooperative Association's Management
12 Internship Program, 1996. I am currently, and have been since 1992, assistant
13 general manager of SLECA where I administer the company's human resources,
14 and computer information services. Prior to that, I served as SLECA's manager
15 of marketing and, even earlier, was the supervisor of right-of-way acquisition and
16 planning. Prior to my employment with SLECA in 1985, I was the vice-president

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1 of Aries Land Company, a right-of-way and oil and gas leasing firm. Before that,
2 I was part owner and manager of Better Sand and Gravel, a hauling business in
3 Oklahoma City. I have a broad background in management, both in the utility
4 and small business spheres.

5 Since December 23, 2000, I have been the Chief Executive Officer of TESI and
6 have reduced my workload at SLECA accordingly.

7
8 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING?**

9 A. I am testifying on behalf of Total Environmental Solutions, Inc. (hereinafter
10 sometimes referred to as "TESI").

11
12 **Q. PLEASE STATE THE PURPOSE OF YOUR TESTIMONY.**

13 A. My testimony is given in support of TESI's Application for Increase in Rates and
14 Charges for Water and Sewer Services in South Carolina.

15
16 **Q. WHO IS TESI?**

17 A. TESI is a Louisiana corporation that was incorporated on July 27, 1999, for the
18 principal, but not exclusive, purpose of owning and operating water and
19 wastewater facilities. TESI is a wholly owned subsidiary of SLECA.

20
21 **Q. HAVE YOU FILED ANY TESTIMONY BEFORE THIS COMMISSION IN**
22 **THE PAST?**

1 A. Yes. I filed testimony in support of TESI's transfer application, Docket No.
2 2000-441-W/S.

3

4 **Q. COULD YOU GIVE A BRIEF HISTORY OF THE FOXWOOD HILLS**
5 **WATER AND WASTEWATER SYSTEMS?**

6 A. Yes. The Foxwood Hills resort community is located on Lake Hartwell.
7 Mountain Bay Estates Utility Company ("Mountain Bay") was created around
8 1977 by the original developer of Foxwood Hills to provide water and wastewater
9 services to that community. The developer of Foxwood Hills initially set
10 Mountain Bay's monthly rates at \$5 for water service and \$3 for wastewater
11 service. It is my understanding that these rates were originally set below cost, and
12 kept that way for many years in order to encourage the sale of lots within
13 Foxwood Hills. The original developer of Foxwood Hills filed for bankruptcy,
14 resulting in the sale of Foxwood Hills and Mountain Bay to Foxwood
15 Corporation, a wholly-owned subsidiary of National American Corporation
16 ("NACO").

17 In the early 1990's, it is my understanding that NACO declared
18 bankruptcy. This bankruptcy prompted NACO to sell Mountain Bay's stock to
19 Johnson Properties, Inc., a company that was wholly-owned by Glenn Johnson.
20 In January, 1994, Mountain Bay applied to the Commission for permission to
21 increase its water and wastewater rates (the "1994 rate case"). The record in the
22 1994 rate case establishes that during the 1992-1993 test year, Mountain Bay was
23 losing around \$130,000 annually.

After a complex procedural history, the Commission set the current rates for Mountain Bay effective May 12, 1997 as follows:

Water:

Residential	Per Lot	\$ 18.95 Flat Rate
Commercial	Per Tap	\$ 30.00 Flat Rate
RV Sections	Per RV Lot	\$ 8.90 Flat Rate
Services provided to multiple condominium units will be billed at		\$ 18.95 per unit.
Services provided to commercial units will be billed at		\$ 30.00
Connection Fee (new customer)		\$250.00
Disconnect/Reconnect at Customer's Request		\$ 50.00
Disconnect/Reconnect for Delinquent Account		\$ 50.00

Sewer:

Residential	Per Lot	\$ 28.95 Flat Rate
Commercial	Per Tap	\$ 35.00 Flat Rate
RV Sections	Per RV Lot	\$ 8.90 Flat Rate
Services provided to multiple condominium units will be billed at		\$ 28.95 per unit.
Services provided to commercial units will be billed at		\$ 35.00
Connection Fee (new customer)		\$400.00

During 1999, Mountain Bay was placed into bankruptcy, making this the third sequential bankruptcy involving owners of the Foxwood Hills water and

1 wastewater systems. Shortly thereafter, Johnson Properties' majority shareholder,
2 Glenn Johnson was imprisoned in a federal penitentiary for crimes related to his
3 running of the water and sewer utilities he and Johnson Properties owned in
4 approximately six states.¹

5
6 **Q. WAS TESI THE SUCCESSFUL BIDDER IN THE JOHNSON**
7 **PROPERTIES BANKRUPTCY CASE?**

8 A. Yes, effective December 23, 2000, TESI purchased substantially all of the water
9 and wastewater assets of Johnson Properties in six states including South
10 Carolina. The Commission approved the transfer of the South Carolina assets on
11 October 10, 2000 in Docket No. 2000-441-W/S, Order No. 2000-824.

12
13 **Q. HOW MUCH DID TESI PAY FOR THOSE ASSETS?**

14 A. TESI paid \$3,450,000 initially for all of the systems.
15

16 **Q. APPROXIMATELY HOW MANY WATER CUSTOMERS DOES TESI**
17 **HAVE IN THE STATE OF SOUTH CAROLINA?**

18 A. TESI serves approximately 543 water customers in Foxwood Hills.
19

20 **Q. APPROXIMATELY HOW MANY WASTEWATER CUSTOMERS DOES**
21 **TESI HAVE IN THE STATE OF SOUTH CAROLINA?**

22 A. TESI serves approximately 561 sewer customers in Foxwood Hills.
23

¹ None of the crimes was directly related to Johnson's South Carolina operations.

1 **Q. ARE THE PRESENT RATES FOR TESI SUFFICIENT TO ALLOW TESI**
2 **TO SERVICE, MAINTAIN, REPAIR, RENOVATE AND REPLACE ITS**
3 **VARIOUS SYSTEMS AND THEIR COMPONENT PARTS IN THE**
4 **STATE OF SOUTH CAROLINA?**

5 A. No, they are not sufficient. That is why TESI is seeking this rate relief. The
6 monthly rates that the Commission must approve in order for TESI to have a
7 sustainable operation at Foxwood Hills are as follows:

- 8 1. Water - \$62.55 for residential and RV customers; \$99.35 for commercial
9 customers and \$62.55 per condominium unit for
10 commercial/condominium customers.
- 11 2. Sewer - \$55.66 for residential and RV customers; \$67.46 for commercial
12 customers and \$55.66 per condominium unit for
13 commercial/condominium customers.

14
15 **Q. DO THESE RATES DIFFER IN ANY WAY FROM THE RATES SET**
16 **FORTH IN THIS APPLICATION'S SCHEDULE OF PROPOSED RATES**
17 **AND CHARGES?**

18 A. Yes. While these rates are fully supported by the Application's financial exhibits
19 and workpapers, the proposed sewer rates are actually slightly lower than the rates
20 set forth in the Application's Schedule of Proposed Rates and Charges. The
21 difference is the result of a typographical error in the Application. The rates set
22 forth in this testimony and those reflected in Appendix B and C to the Application
23 are the rates TESI is requesting in this docket.

1

2 **Q. ARE THESE RATE INCREASES BASED ON A RATE-BASED RATE OF**
3 **RETURN?**

4 A. No they are not. While TESI understands that this Commission has on one or two
5 recent occasions approved rates based on this methodology, TESI is submitting
6 this request based upon the operating margin methodology, which we understand
7 this Commission has more commonly used.

8

9 **Q. DOES TESI SEEK A UNIFORM RATE FOR ALL OF ITS CUSTOMERS**
10 **IN FOXWOOD HILLS?**

11 A. Yes.

12

13 **Q. HAS TESI PROPOSED A CHANGE IN THE RELATIONSHIP BETWEEN**
14 **ITS “RESIDENTIAL” AND “RV” RATES?**

15 A. Yes we have. After TESI started running Foxwood approximately 3½ years ago,
16 we learned that the vast majority of the “RV” customers had actually constructed
17 “fixed” dwellings on their lots. These customers are functionally the same as
18 “Residential” customers, as far as their demands upon the water and sewer
19 systems are concerned. Based upon this, it is appropriate to eliminate the
20 difference in rates that currently existed between Residential and RV customers.

21

1 **Q. HOW HAVE YOU DETERMINED THE ADDITIONAL OPERATING**
2 **REVENUE NECESSARY TO BRING THE FOXWOOD SYSTEM BACK**
3 **TO ECONOMIC SUSTAINABILITY?**

4 A. TESI's staff has worked diligently with the staff of Mr. Gary Shambaugh, our
5 expert with AUS Consultants. Naturally, I must defer to Mr. Shambaugh for the
6 exact particulars of the rate increase and rely upon his work and his final analysis
7 as to what TESI requires.

8
9 **Q. AND HAS MR. SHAMBAUGH PREPARED THE NECESSARY**
10 **SCHEDULES AND OTHER SUPPORT DATA IN CONNECTION WITH**
11 **THIS CASE?**

12 A. Yes, he has. That data is included as exhibits to TESI's rate application, and is
13 supported by Mr. Shambaugh's pre-filed testimony. I wish to adopt by reference
14 the data and schedules which he has submitted on behalf of TESI.

15
16 **Q. DID TESI PERFORM AN ANALYSIS OF THE ESTIMATED REPAIRS**
17 **AND IMPROVEMENTS TO THE JOHNSON PROPERTIES ASSETS**
18 **LOCATED IN SOUTH CAROLINA PRIOR TO COMPLETING THAT**
19 **PURCHASE?**

20 A. We did the best we could. However, obtaining an accurate estimate of necessary
21 repairs and improvements turned out to be virtually impossible.

1 **Q. WHY WAS THAT?**

2 A. The previous owner of the Foxwood Hill system failed to document many of the
3 current problems and system shortcomings.

4

5 **Q. DIDN'T TESI ALSO INTERVIEW A NUMBER OF FORMER**
6 **EMPLOYEES OF JOHNSON PROPERTIES TO OBTAIN THEIR**
7 **INSIGHTS INTO THE CONDITION OF THE JOHNSON SYSTEMS?**

8 A. Yes. However, it appears that Mr. Johnson kept a good deal of material
9 information away from these Johnson Properties' employees as well.

10

11 **Q. DID TESI ATTEMPT TO DISCOVER THE SYSTEM'S CONDITION**
12 **FROM THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND**
13 **ENVIRONMENTAL CONTROL ("DHEC")?**

14 A. Yes, but our inquiries with DHEC still did not uncover many of the existing
15 system deficiencies. In hindsight, it appears that DHEC was not entirely
16 forthcoming with us during our "due diligence" meetings here in Columbia.
17 DHEC's written records on this facility also contained large gaps.

18

19 **Q. CAN YOU GIVE THE COMMISSION AN EXAMPLE OF ONE OF**
20 **THESE "GAPS" IN DHEC'S INFORMATION REGARDING THIS**
21 **SYSTEM?**

22

23 A. Yes. In August, 1980, Foxwood Corporation, Mountain Bay, NACO and DHEC
24 entered into an Agreement related to the Foxwood wastewater treatment plant

1 (“WWTP”) (attached to our application as Exhibit 4). This Agreement presents a
2 history of Foxwood Hills in Article I, sets forth certain obligations regarding
3 construction of the collection lines in Article II, and certain obligations regarding
4 expansion of the WWTP in Article III. The Agreement requires the creation of
5 three escrow accounts to pay for the anticipated expansion, and contains
6 guarantees by Foxwood, NACO, and Mountain Bay that the parties will perform
7 their obligations under the Agreement.

8 The Agreement recites that the 100,000 GPD WWTP in service today was
9 also in service in 1980, and that the ultimate build-out for Foxwood Hills was in
10 excess of 4,000 homes. The Agreement then sets out a contract through which the
11 parties agreed that plant capacity and distribution lines would be expanded to
12 meet that anticipated growth.

13 The Agreement calls for the creation of three different escrow accounts
14 associated with Foxwood Hills. Escrow Accounts I and II were related to the
15 initial development of Foxwood Hills, and appear to have been utilized for that
16 purpose. Escrow III was to be created contemporaneously with the Agreement,
17 through a separate agreement between DHEC and the other parties. Foxwood and
18 Mountain Bay would fund Escrow III by depositing \$300 of a \$650 water and
19 sewer “connection fee” collected from each new lot owner. This fee was due
20 when water and sewer service lines were available to the lot owners.

21 The Agreement reflected the parties’ belief that Escrow III would
22 eventually rise in value to approximately \$1,150,000. The *only* proper use of
23 Escrow III was to construct either necessary treatment plant additions, or

1 transmission lines to connect the Foxwood subdivision to a regional treatment
2 facility. DHEC undertook the express and exclusive obligation to determine
3 whether the parties had met the requirements necessary for release of the escrow
4 funds.

5 It appears that approximately 3,000 lots were sold after execution of the
6 Agreement. If the parties followed the requirements of the Agreement, the
7 current balance of Escrow III should now equal well over \$900,000.

8 According to DHEC's records, as of April, 1995, the escrow account
9 balance was approximately \$340,000. DHEC's records for this facility are
10 essentially a blank from April, 1995 through the end of 1999. DHEC's records on
11 this issue firmly establish that the original 100,000 GPD plant was never
12 expanded. But these records are void of any evidence that DHEC ever approved
13 the release of the escrow account. In other words, based on DHEC's records, it
14 would appear that this escrow account still existed both at the time we purchased
15 this facility and today, and that the escrow funds were available for the now-
16 essential WWTP plant expansion at Foxwood Hills.

17
18 **Q. ARE DHEC RECORDS ON THIS POINT ACCURATE?**

19 A. No they are not. As part of our application, we requested that the Commission
20 look into the current status of Escrow III. As a result of the Commission Staff's
21 diligent inquiries, it appears that around August, 1995, DHEC actually released
22 the entire balance of Escrow III to Mountain Bay. I have attached the release
23 document that the Commission Staff obtained from the Bank of Westminster (the

escrow agent) as **Exhibit 1** to this testimony. It further appears that Mountain Bay withdrew over \$350,000 on January 4, 1996. I have attached the withdrawal slips to this testimony as **Exhibit 2**. Neither of these documents are contained in DHEC's files.

Q. WAS THIS \$350,000 SPENT ON THE EXPANSION OF THE WWTP, AS DHEC WAS SUPPOSED TO REQUIRE?

A. No it was not. It appears that DHEC breached its obligation to ensure that Escrow III was used to expand the WWTP. These funds were never used to the benefit of Foxwood Hills at all, but were used by Johnson Properties for some other unknown and unrelated purpose.

Q. WHAT ARE THE IMPLICATIONS OF ALL OF THIS TO TESI'S NEED FOR RATE RELIEF HERE IN SOUTH CAROLINA?

A. As I will explain later in this testimony, TESI is currently under a consent order with DHEC to complete a necessary expansion of the WWTP at Foxwood Hills. According to DHEC's records, an escrow account existed for this very purpose. Since DHEC was charged with the obligation of ensuring that this money was used for that purpose, and since the plant had not been expanded since the 1980 Agreement, TESI has been very hopeful that these funds could still be used to benefit Foxwood customers. As you can imagine, TESI is extremely disappointed to learn that DHEC released these funds without ensuring that they were used for the requisite plant expansion.

1

2 **Q. AT THE TIME OF THE BANKRUPTCY PURCHASE, HOW MUCH DID**
3 **TESI ESTIMATE IT WOULD SPEND TO REPAIR AND REFURBISH**
4 **THE VARIOUS JOHNSON PROPERTIES FACILITIES AND OVER**
5 **WHAT PERIOD OF TIME?**

6 A. Our best estimate at that time was \$4,700,000 to be spent over a four (4) year
7 period.

8

9 **Q. DID TESI ARRANGE PERMANENT FINANCING REGARDING ITS**
10 **INITIAL PURCHASE OF THE SYSTEMS?**

11 A. Yes, TESI has received a commitment from National Cooperative Services
12 Corporation (NCSC) for a long-term loan in the amount of \$8,000,000 for the
13 purpose of acquiring and operating the subject properties. NCSC will also
14 underwrite the bond assurance required by various governmental agencies in the
15 sum of \$1,400,000. Naturally, only a portion of the loan funds will actually pay
16 for the assets. The bulk of the funds will be used to repair, renovate and upgrade
17 the facilities which we view as a very important component of buying these
18 facilities. It was obvious to us that many were in a state of disrepair and required
19 immediate upgrade. Others will require improvements over time and we intend to
20 see that all of the properties are repaired and maintained. In addition, TESI
21 entered into an agreement with Hancock Bank to finance a portion of the Johnson
22 Properties' assets and we continue to have a banking relationship with Hancock
23 Bank.

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Q. DOES THE RELIEF SOUGHT AFFECT COMMERCIAL AND INDUSTRIAL CUSTOMERS AS WELL AS RESIDENTIAL CUSTOMERS?

A. Yes, we are seeking rate relief that is proportionally similar for all of our classes of customers.

Q. PLEASE LIST THE OTHER STATES WHERE TESI HAS SOUGHT AND OBTAINED RATE RELIEF?

A. Mississippi, North Carolina, Louisiana and Pennsylvania.

Q. DOES TESI ANTICIPATE SEEKING ADDITIONAL RATE RELIEF IN OTHER STATES AND, IF SO, WHICH STATES AND APPROXIMATELY WHEN?

A. TESI anticipates filing a rate case in Mississippi in late 2004 or early 2005. TESI also anticipates filing a wastewater rate case in North Carolina in 2005 and a water rate case in Tennessee shortly after.

Q. DOES TESI COMMIT TO SEE THAT ITS RESIDENTIAL CUSTOMERS DO NOT CARRY AN UNFAIR BURDEN OF COSTS IN RELATION TO COMMERCIAL AND INDUSTRIAL CUSTOMERS?

A. Yes.

1 **Q. WHAT NET BENEFITS DO THE RATEPAYERS RECEIVE**
2 **REGARDING THESE INCREASES?**

3 A. I believe, for these increases, which are crucial of TESI's continued survival in
4 South Carolina, the Foxwood ratepayers will continue to receive safe and
5 consistent service.

6

7 **Q. HAS TESI COMPLIED WITH ALL SOUTH CAROLINA REGULATORY**
8 **REQUIREMENTS SINCE ITS PURCHASE OF THE SUBJECT SYSTEMS**
9 **ON OR ABOUT DECEMBER 23, 2000?**

10 A. Yes, we believe that TESI has essentially complied with all such regulatory
11 requirements.

12

13 **Q. HAS TESI COMPLETED AN AFFILIATED SERVICES CHARGES**
14 **STUDY?**

15 A. Yes. We have included the results of that study in our rate request. We either
16 have or will supply a copy to all interested Commissioners and Staff Members of
17 the South Carolina Public Service Commission, upon appropriate request.

18

19 **Q. HAS TESI COMPLETED AN AUDIT OF ITS FINANCIAL OPERATIONS**
20 **FOR THE YEARS 2002 AND 2003?**

21 A. Yes. TESI has provided the relevant information as part of its Application. Mr
22 Shambaugh will present detailed testimony on this subject.

23

1 **Q. DO TESI'S SOUTH CAROLINA OPERATIONS SHOW A LOSS OR A**
2 **PROFIT?**

3 A. TESI's South Carolina operations for the fiscal year 2003 show a total adjusted
4 operating loss of \$371,067.

6 **Q. DOES THIS RATE CASE SEEK TO AVOID THAT TYPE OF LOSS IN**
7 **THE YEARS GOING FORWARD?**

8 A. Yes, the purpose for the requested rate increase is to allow TESI a fair and
9 reasonable operating margin on its water and wastewater systems in an amount
10 not to exceed the authorized rate allowed by the South Carolina Public Service
11 Commission.

13 **Q. IF THE REQUESTED RATES ARE GRANTED, HOW MUCH ANNUAL**
14 **REVENUE WILL RESULT?**

15 A. Total annual water revenues will be \$433,150 and total annual sewer revenues
16 will be \$369,285.

18 **Q. IS TESI AMENABLE TO ANY ALTERNATE RATE DESIGN**
19 **APPROACHES?**

20 A. Yes. TESI is pleased to work with the South Carolina Public Service
21 Commission Staff to make reasonable adjustments in the base water and
22 wastewater rates. For example, as I have discussed previously in my testimony,
23 TESI has requested rates that eliminate the current distinction between residential

1 and residential RV customers. If the Commission or its staff is uncomfortable
2 with this approach, TESI would be open to adjusting those rates to reintroduce
3 that distinction. However, in doing so, we would also have to 1) increase other
4 rates to maintain the currently-proposed operating margin; and 2) further refine
5 the definition of a Residential (non-RV) customer to accurately reclassify as
6 Residential all current RV customers whose dwellings are actually fixed
7 residential units.

8
9 **Q. ARE THERE ANY OTHER SPECIFIC RATE ISSUES THAT TESI**
10 **WOULD LIKE TO SUBMIT TO THE COMMISSION?**

11 A. Yes. As part of this application, we have requested a necessary accounting
12 correction for this system's plant and depreciation. Any rate design that does not
13 include this adjustment will not allow TESI to recover the utility capital
14 investment associated with this facility over its useful life. If TESI's rates do not
15 include this essential economic element, TESI will never be able to build up a
16 reserve with which to replace plant and durable assets as they inevitably end there
17 useful life. Moreover, in the absence of rates that include depreciation expense
18 components, banks and other lending institutions will refuse to extend financing
19 towards necessary plant additions and replacements in South Carolina.

20
21 In support of this request, we have performed and submitted original cost studies
22 for the Foxwood Hills water and sewer systems (Exhibits 2 and 3 to the
23 Application) and the testimony of Gary Shambaugh. Mr. Shambaugh will explain

1 in detail the need for this correction. TESI believes that this correction is
2 essential to its long-term survival
3

4 **Q. WOULD TESI CONSIDER DIFFERENT WATER RATES PER CLASS OF**
5 **CUSTOMER?**

6 A. Yes, as long as the necessary and fair operating margin we have requested is
7 maintained.
8

9 **Q. WOULD TESI CONSIDER DIFFERENT WASTEWATER RATES PER**
10 **CLASS OF RESIDENTIAL CUSTOMER?**

11 A. Yes, as long as the necessary and fair operating margin we have requested is
12 maintained.
13

14 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

15 A. Yes, although as the case progresses, I may wish to supplement this testimony.

Exhibit 1

Paul Maeder
to
Direct

STATE OF SOUTH CAROLINA)

COUNTY OF OCONEE)

AGREEMENT AND RELEASE

WHEREAS, by Agreement dated the 7th of August, 1980, FOXWOOD CORPORATION, a South Carolina Corporation (hereinafter called FOXWOOD), MOUNTAIN BAY ESTATES UTILITY COMPANY, INC., a South Carolina Corporation, and a wholly owned subsidiary of Foxwood Corporation (hereinafter called UTILITY COMPANY), NATIONAL AMERICAN CORPORATION (hereinafter called NATIONAL AMERICAN), and the SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL (hereinafter called DHEC), the Parties agreed to place on deposit certain funds with the BANK OF WESTMINSTER (hereinafter called BANK), pursuant to the terms of said Agreement, and,

WHEREAS, certain funds are now on deposit with the BANK, and, the Parties to the Agreement are desirous of withdrawing said funds,

NOW, KNOW ALL MEN BY THESE PRESENTS that the undersigned hereby authorize the release of funds held by the Bank of Westminster in Account Numbers 3000398 and 3000476 (Certificates of Deposit), and that said funds be paid to UTILITY COMPANY.

The undersigned, as the Parties to the Agreement of August 7, 1980, release the Bank of Westminster from any responsibility or liability for holding or escrowing any funds pursuant to the Agreement terms.

The Parties hereto hereby warrant and affirm that they have the full authority and power to enter into this Release and that all rights under the above mentioned Agreement are owned by them or have been assigned to them and, that the payment of the monies to UTILITY COMPANY as noted above and the delivery of the funds hereby satisfies any and all liability and responsibility of the Bank of Westminster pursuant to the Agreement of August 7, 1980, and, that the Bank of Westminster is released from any further liability or responsibility arising or as may arise from said Agreement and that all claims for funds from the Bank of Westminster are satisfied and the Agreement is hereby voided, cancelled and discharged as to the Bank of Westminster.

Witness our hands and seals this 28 day of August, 1995.

COPY

Signed, Sealed and Delivered in
the presence of:

[Signature]
[Signature]

Carol Howell
Melinda Haza

[Signature]
[Signature]

MaryBeth Lamp
Sharon Wasielewski

Paula C. Oliver
Kay Marcengill

FOXWOOD CORPORATION

BY: [Signature]

TITLE: V.P.

MOUNTAIN BAY ESTATES UTILITY
COMPANY, INC.

BY: [Signature]

TITLE: President

NATIONAL AMERICAN CORPORATION

BY: [Signature]

TITLE: V.P.

SOUTH CAROLINA DEPARTMENT OF HEALTH
AND ENVIRONMENTAL CONTROL

BY: Michael H. Hells

Title: Section Manager

*Advised to appear in State 9, S.C.
9/12/98 Bill H. Hells
Commissioner Expires 8/2/2002*

BANK OF WESTMINSTER

BY: [Signature]

TITLE: President

COPY

Exhibit 2

DETACH AND RETAIN

NUMBER

№ 67369

Westminster, S. C. 1/04 19 96

\$ 46,610.89

ORDER OF

Mountain Bay Utility Company

SOLD TO

BANK OF WESTMINSTER
Westminster, S. C.

CASHIER'S CHECK RECEIPT

DETACH AND RETAIN

NUMBER

№ 67368

Westminster, S. C. 1/04 19 96

\$ 308,106.77

ORDER OF

Mountain Bay Utility co.

SOLD TO

BANK OF WESTMINSTER
Westminster, S. C.

CASHIER'S CHECK RECEIPT

COPY